

whether an oath or declaration governs the information). Thus, the Office shall generally, for example, not look to an oath or declaration under § 1.63 to see if the bibliographic information contained therein is consistent with the bibliographic information captured from an application data sheet (whether the oath or declaration is submitted prior to or subsequent to the application data sheet). Captured bibliographic information derived from an application data sheet containing errors may be corrected if applicant submits a request therefor and a supplemental application data sheet.

[65 FR 54668, Sept. 8, 2000, as amended at 65 FR 57054, Sept. 20, 2000; 69 FR 56540, Sept. 21, 2004; 70 FR 54266, Sept. 14, 2005; 72 FR 46837, Aug. 21, 2007]

§ 1.77 Arrangement of application elements.

(a) The elements of the application, if applicable, should appear in the following order:

- (1) Utility application transmittal form.
- (2) Fee transmittal form.
- (3) Application data sheet (see § 1.76).
- (4) Specification.
- (5) Drawings.
- (6) Executed oath or declaration.

(b) The specification should include the following sections in order:

- (1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).
- (2) Cross-reference to related applications (unless included in the application data sheet).
- (3) Statement regarding federally sponsored research or development.
- (4) The names of the parties to a joint research agreement.
- (5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.
- (6) Background of the invention.
- (7) Brief summary of the invention.

(8) Brief description of the several views of the drawing.

(9) Detailed description of the invention.

(10) A claim or claims.

(11) Abstract of the disclosure.

(12) "Sequence Listing," if on paper (see §§ 1.821 through 1.825).

(c) The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type.

[65 FR 54668, Sept. 8, 2000, as amended at 70 FR 1823, Jan. 11, 2005]

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) *Definitions*—(1) *Continuing application*. A continuing application is a nonprovisional application or an international application designating the United States of America that claims the benefit under 35 U.S.C. 120, 121, or 365(c) of a prior-filed nonprovisional application or international application designating the United States of America. An application that does not claim the benefit under 35 U.S.C. 120, 121, or 365(c) of a prior-filed application is not a continuing application even if the application claims the benefit under 35 U.S.C. 119(e) of a provisional application, claims priority under 35 U.S.C. 119(a)-(d) or 365(b) to a foreign application, or claims priority under 35 U.S.C. 365(a) or (b) to an international application designating at least one country other than the United States of America.

(2) *Divisional application*. A divisional application is a continuing application as defined in paragraph (a)(1) of this section that discloses and claims only an invention or inventions that were disclosed and claimed in a prior-filed application, but were subject to a requirement to comply with the requirement of unity of invention under PCT Rule 13 or a requirement for restriction under 35 U.S.C. 121 in the prior-filed application, and were not elected for examination and were not examined in any prior-filed application.

(3) *Continuation application*. A continuation application is a continuing application as defined in paragraph